

Mr. Lieberman

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

19577

FILE: B-203980

DATE: September 22, 1981

MATTER OF: Polychromic Designs

DIGEST:

Bid which qualifies delivery schedule required under solicitation and imposes 1.5-percent-per-month late payment interest charge for payments made after 30 days was properly rejected as nonresponsive.

Polychromic Designs (PD) protests the rejection of its bid under solicitation No. 81-SOL74 issued by the Department of the Interior (Interior) for partitions. PD's bid was rejected as nonresponsive by Interior because the bid imposed conditions on meeting the required delivery schedule and a 1.5-percent-per-month late payment fee on invoices unpaid after 30 days. The protester contends that it submitted the low responsive bid and that these qualifications were of no significance. We find the protest without merit.

The solicitation required delivery of the partitions within 120 calendar days after receipt of notice of the award. PD's bid included a cover letter which stated that, while it was quoting delivery in 120 days, timely delivery was subject to accident, delays of carrier, ability to obtain raw materials or any other cause beyond PD's control. This cover letter also stated, with regard to payment terms, that a 1.5-percent-per-month late payment fee was automatically added to invoices unpaid after 30 days.

In order to be responsive, a bid must contain an unequivocal offer to provide the requested items in total conformance with the terms and specifications of the solicitation. A bid which takes exception to any of the essential requirements of the solicitation is not responsive and must be rejected. J. Baranello and Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322.

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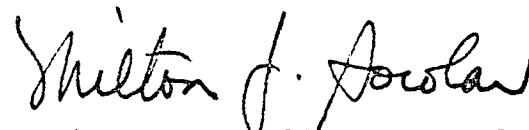
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The delivery schedule specified in the solicitation is one of the essential requirements. Federal Procurement Regulations § 1-2.404-2(a) (1964 ed. amend. 121). Here, by making its obligation to deliver the partitions within the specified time contingent on a variety of factors not included in the solicitation, the bidder failed to comply with the required delivery schedule, thereby rendering its bid nonresponsive. Sunoptic, Inc., B-194722, May 14, 1979, 79-1 CPD 351.

In addition, PD's inclusion of a 1.5-percent-per-month late payment fee also imposed a condition which materially affected the terms of the solicitation with respect to price and gave it an advantage relative to other bidders which had bid a firm, fixed price. Our Office has held that the imposition of such an interest charge renders a bid nonresponsive. Kari-Vac, Incorporated, B-194202, July 3, 1979, 79-2 CPD 4.

We note that Interior also indicates that PD's bid provides for additional charges for certain hardware installations which Interior states are required under the solicitation specifications. Interior believes that factoring in the additional charges associated with these installations results in PD's bid being evaluated as higher in price than the three bids next in line. However, since PD's bid was properly rejected as nonresponsive, it is unnecessary to resolve this issue.

The protest is denied.



Acting Comptroller General
of the United States